



SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

NUMBER: 26149S – Rancho Laguna
DATE: September 26, 2005
RESPONSE REQUIRED BY: October 26, 2005

PERMIT MANAGER: Molly Martindale PHONE: 415-977-8448 Email: Molly.Martindale@usace.army.mil

1. INTRODUCTION: Rancho Laguna, LLC, through its agent Sycamore Associates, LLC, has applied for a U.S. Army Corps of Engineers (Corps) permit to fill wetlands and waters of the United States. The project applicant is proposing to build a residential development on approximately 44 acres of a 180-acre site located along Rheem Boulevard in the Town of Moraga in Contra Costa County, California.

The Rancho Laguna site is bounded by Rheem Boulevard to the west and St. Mary's Road to the southeast (Figure 1). East of the project site is open space, with residential development to the south, and the proposed Palos Colorados residential and golf course project to the north.

The project site has 8,325 linear feet of Corps jurisdictional stream channel and 1.53 acres of jurisdictional wetlands (Figure 2). The project will result in the loss of 2,003 linear feet of channel, and 0.55 acre of total jurisdictional wetlands and waters, of which 0.15 acre (1,036 linear feet) is the northern wetland swale; 0.05 acre is freshwater seep; 0.01 acre is a seasonal wetland; and 0.34 acre (967 linear feet) is in an intermittent creek along Rheem Boulevard (hereinafter, the Rheem Boulevard creek) (Figure 3). In addition, 0.65 acre of riparian habitat associated with the Rheem Boulevard creek, but outside of Corps jurisdiction, will be removed.

This application is being processed pursuant to the

provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. Current Site Conditions: The project site primarily consists of undeveloped grazing land. Elevations range from 650 to 975 feet above mean sea level. A single access road enters from Rheem Boulevard and traverses the northwestern part of the project site, providing access to the adjacent East Bay Municipal Utility District Fay Hill Reservoir. High-tension power lines cross the property as well.

The site has steep east and west-facing slopes and two wooded valleys. An intermittent creek runs through each valley. The Rheem Boulevard creek flows parallel to Rheem Boulevard from north to south before joining Las Trampas Creek approximately 100 feet south of the property line. The headwaters of Coyote Creek are located upstream of the project site on the Palos Colorados property. Coyote Creek flows south through the eastern portion of the property and into Las Trampas Creek approximately 400 feet south of the property boundary. Several intermittent drainages on site drain into each major creek.

The predominant vegetation communities found on site are non-native annual grassland, coast live oak woodland, and northern coyote brush scrub. Scattered willows are present within the riparian oak woodland along Coyote Creek and its tributaries, and stands of Central Coast riparian

scrub dominated by willows are present, along with oaks, on the lower reaches of the Rheem Boulevard creek (Figure 4). Numerous seasonal freshwater seeps are present within the Coyote Creek watershed, many at the heads of small tributary swales. Vegetation within the seep areas is highly disturbed by cattle, and includes both native and non-native emergent herbaceous species. A total of 73 native trees were identified along the Rheem Boulevard creek. The riparian canopy along that creek covers approximately 0.88 acre.

3. Project Description: As shown in Figure 3, the proposed project includes the construction of 35 residential units and associated roadways and utilities. Of these, fourteen units will be located in the western, lower portion of the project site, along Rheem Boulevard (Figure 2). The remaining 21 residential units will be located higher and a bit further to the southeast, on a "plateau." The building pads will be set low in order to reduce their visibility.

These features will be constructed on approximately 18 acres of the 180-acre site, representing 10 percent of the total project area. Twenty-six acres would be placed in open space to be owned by the Homeowners Association, and the remaining 136 acres will be placed in permanent open space and managed as habitat for special-status species. Portions of the project site are designated under the Town of Moraga's Open Space Ordinance (MOSO), which provides strict limitations on development potential for open space areas, ridgelines, and slopes above twenty percent.

Due to the geologic instability of the area and the resulting potential for the failure of Rheem Boulevard, the Rheem Boulevard creek would be filled (and re-created in approximately the same location) as part of the proposed project. The natural hydrology will be retained to the maximum extent feasible. All subdrains that are proposed for

placement at higher elevations than the re-created creek will be directed to the re-created creek, which is also intended to intercept seep flows.

Ingress and egress to the residential development would be provided in two locations, both along Rheem Boulevard. An existing entrance at the northern end of the project site will be expanded to provide access to the lower 14 units proposed along Rheem Boulevard. In the southern portion of the project site, a road running west to east, A-Way, which includes placement of an arch culvert over the Rheem Boulevard creek, will provide access to the upper 21 units. Additionally, for purposes of public safety, an emergency vehicle access (EVA) roadway will be constructed between Rheem Boulevard and Lot #9 (Figure 4).

As part of the recreation component of this project, access to the MOSO-designated area would be provided via a four- to six-foot wide, decomposed aggregate, bike and pedestrian trail. This trail would link the existing Lafayette-Moraga Regional Trail to the proposed open space areas by way of two existing localized trails, and connect with the East Bay Municipal Utility District Fay Hill Reservoir access road in the northwest portion of the project site. The main branch of the proposed trail would extend along Rheem Boulevard and the creek channel, traverse under the EVA roadway and A-Way, and connect with one of the existing trails.

Cumulative Impacts: The 557-acre Palos Colorado property immediately to the north of Rancho Laguna, is also currently proposed for development. The Palos Colorados site contains 3.38 acres of Corps-jurisdictional wetlands and 25,670 linear feet (4.86 miles) of jurisdictional channel. The proposal is to construct 123 housing units and an 18-hole golf course on approximately 178 acres of the property. The project plan has not yet been finalized, but it is expected that less than 1.89 acres of jurisdictional wetlands and 7,740 linear feet of channel would be

filled for the project. Development features would surround, but not directly impact, the upper Coyote Creek channel, which also flows through the Rancho Laguna site. California red-legged frogs (CRLF) are present in some ponds on Palos Colorados, and new CRLF ponds will be created on that site in partial compensation for direct and indirect impacts to that species.

Mitigation: For the project's direct impacts to 2,003 linear feet and 0.55 acre of jurisdictional features, the applicant is proposing to place a conservation easement on approximately 136 acres on-site, consisting of areas north and east of the development and including Coyote Creek and its tributaries. The conservation easement area also provides potential habitat for Alameda whipsnake, dispersal habitat for the California red-legged frog, and foraging and nesting habitat for many bird species. The ratio of preserved land to the area within the development envelope is approximately 3:1. The Coyote Creek corridor and its tributaries support well-developed stands of Central Coast riparian scrub and riparian oak woodland. An estimated 21 acres of tree canopy will be preserved within the 136-acre conservation easement.

The applicant states that, because wetland and drainage features on the intended conservation easement are associated with a high degree of slope instability, opportunities for the creation or expansion of wetlands on site are extremely limited. Wetland creation by the impoundment of tributary or seep waters could require prohibitively expensive and invasive geotechnical engineering in order to ensure that any earthwork would not be subject to damage by slope failure. Furthermore, an abundance of loose clay loam soils exposed by slumps and erosion exacerbated by cattle grazing and trampling would likely lead to the rapid sedimentation of any created basins or impoundments.

Instead, enhancement of the existing habitats could

be achieved by the development of an appropriate land-management plan, which would be designed to improve on-site conditions within the conservation easement and maintain a diverse mosaic of habitat types. Elements of such a plan would include recommendations for grazing management, using exclusion fencing to limit cattle access to sensitive areas such as seeps and creeks. Seasonal rotational grazing can also be used effectively to combat invasive weed species such as thistles, while encouraging the growth of native plants. Proper grazing management could also have the effect of improving downstream water quality through a reduction in soil erosion.

Either the same management plan, or a separate one, could be used for the re-created Rheem Boulevard creek. The re-created creek will require extensive revegetation and monitoring to ensure success of the planted materials and the stability of the channel.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

Purpose and Need: The basic purpose of this

project is housing. The overall purpose of this project is to construct an upscale residential development in western Contra Costa County.

Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is not water dependent. The applicant states that there are no practicable alternatives for this project and has submitted an Alternatives Analysis for Corps review.

Endangered Species Act of 1973 (ESA): If a proposed project requiring a Corps permit may adversely affect any Federally listed threatened or endangered species or its designated critical habitat, Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service.

Species and critical habitat currently identified as potentially impacted by the proposed project include the California red-legged frog (*Rana aurora draytonii*) (CRLF) and the Alameda whipsnake (*Masticophis lateralis euryxanthus*) (whipsnake). The Corps has initiated consultation for these species.

Although a CRLF site assessment conducted by Wood Biological Consulting did not find aquatic habitats on the project site suitable for breeding, the site does provide potentially suitable dispersal habitat. CRLFs are known to breed approximately 0.9 miles to the north on the Palos Colorados property and there are no barriers to movement from that location to the project site. The well-vegetated Coyote Creek is the most likely dispersal corridor since it provides the appropriate refugia from predation as well as connectivity to Las Trampas

Creek, downstream of the project site. The Coyote Creek corridor is within the proposed on-site conservation easement area.

Wood Biological Consulting also completed an Alameda whipsnake site assessment in March 2003. The assessment found that habitats on site are not optimal for Alameda whipsnake breeding due to a lack of dense thickets of scrub and rock outcrops, and intense livestock grazing practices. However, the assessment also states that grassland and woodland habitats located on the project site are more or less contiguous with habitats in Las Trampas Ridge Regional Open Space known to support whipsnake. Sycamore biologists recently observed several patches of northern coyote brush scrub on the slopes facing Coyote Creek, the largest of which is approximately one-half acre in size. These areas provide potential whipsnake habitat. The closest documented occurrences of Alameda whipsnake in the vicinity are from the mid 1990's and are located between 3 and 3.5 miles from the site. Thus, there is a low to moderate potential for Alameda whipsnake to move through the project site

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the Bay Area Regional Water Quality Control Board. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period of this Public Notice.

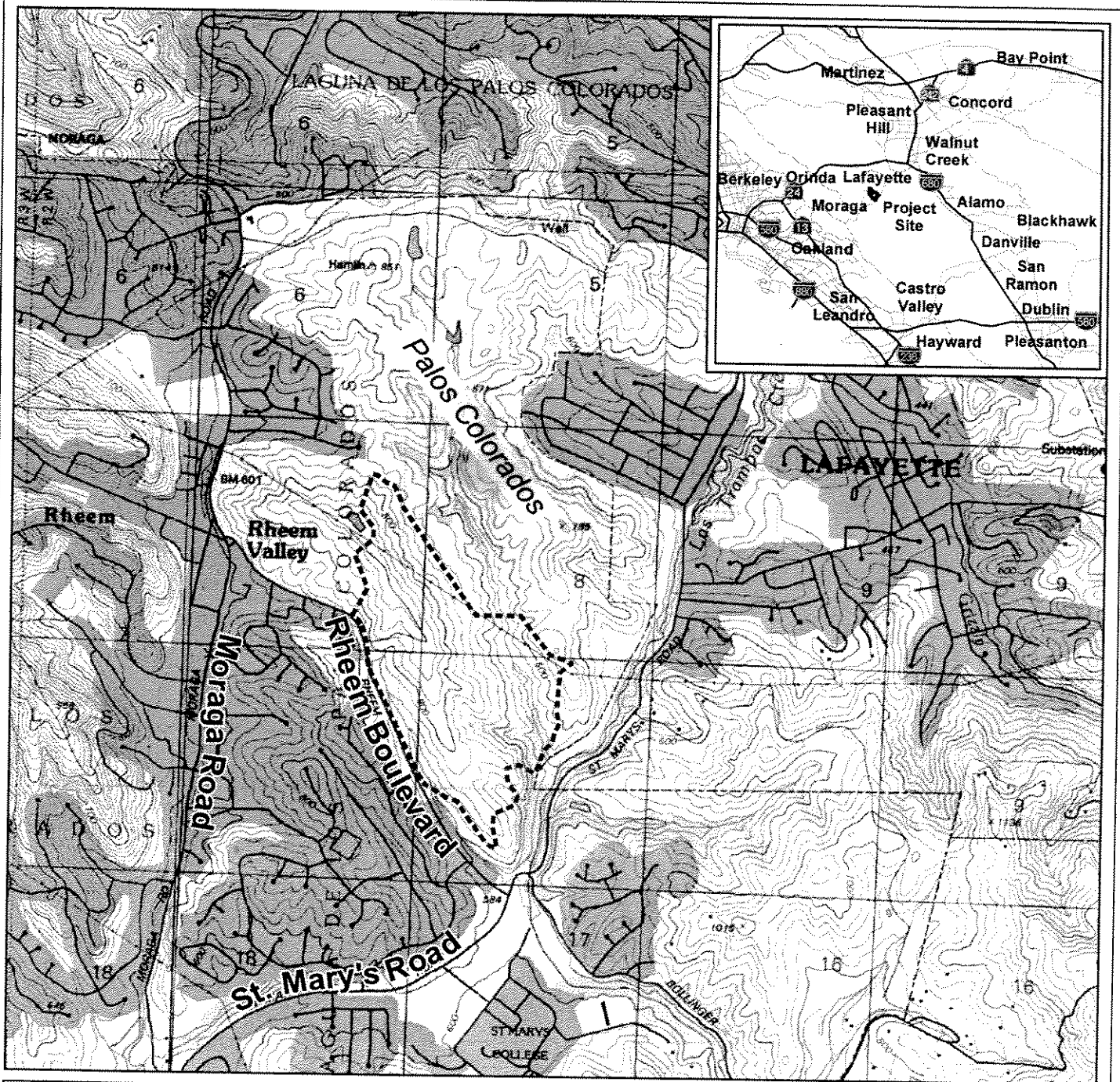
National Historic Preservation Act of 1966 (NHPA): Based on the applicant's review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. CONSIDERATION OF COMMENTS: The

Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

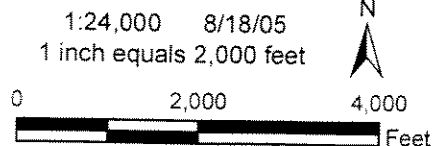
6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Molly Martindale of our office at telephone 415-977-8448 or E-mail: Molly.Martindale@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.



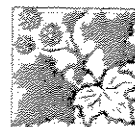
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Rancho Laguna Project Site



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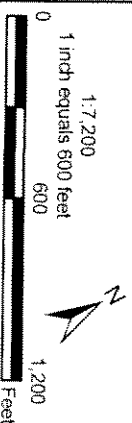
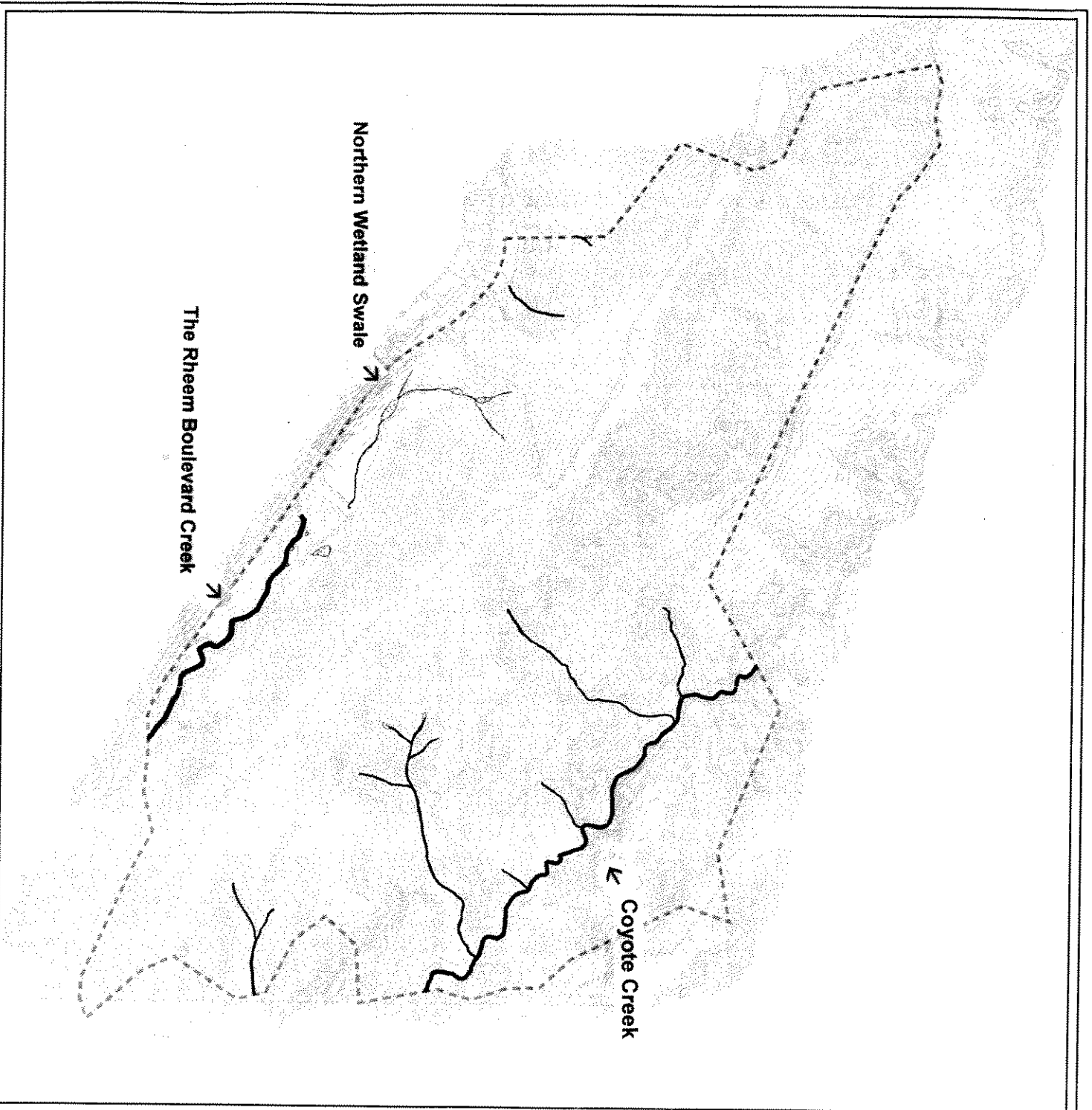
Figure 1

Location of the Project Site
Rancho Laguna Residential Development
River West Investments
Contra Costa County, California

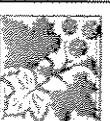
Figure 2
Jurisdictional Features
 Rancho Laguna
 Residential Development
 River West Investments
 Moraga, Contra Costa County, California

Legend

-  Wetland
-  Intermittent Drainage
-  Project Boundary
-  Topographic Contours










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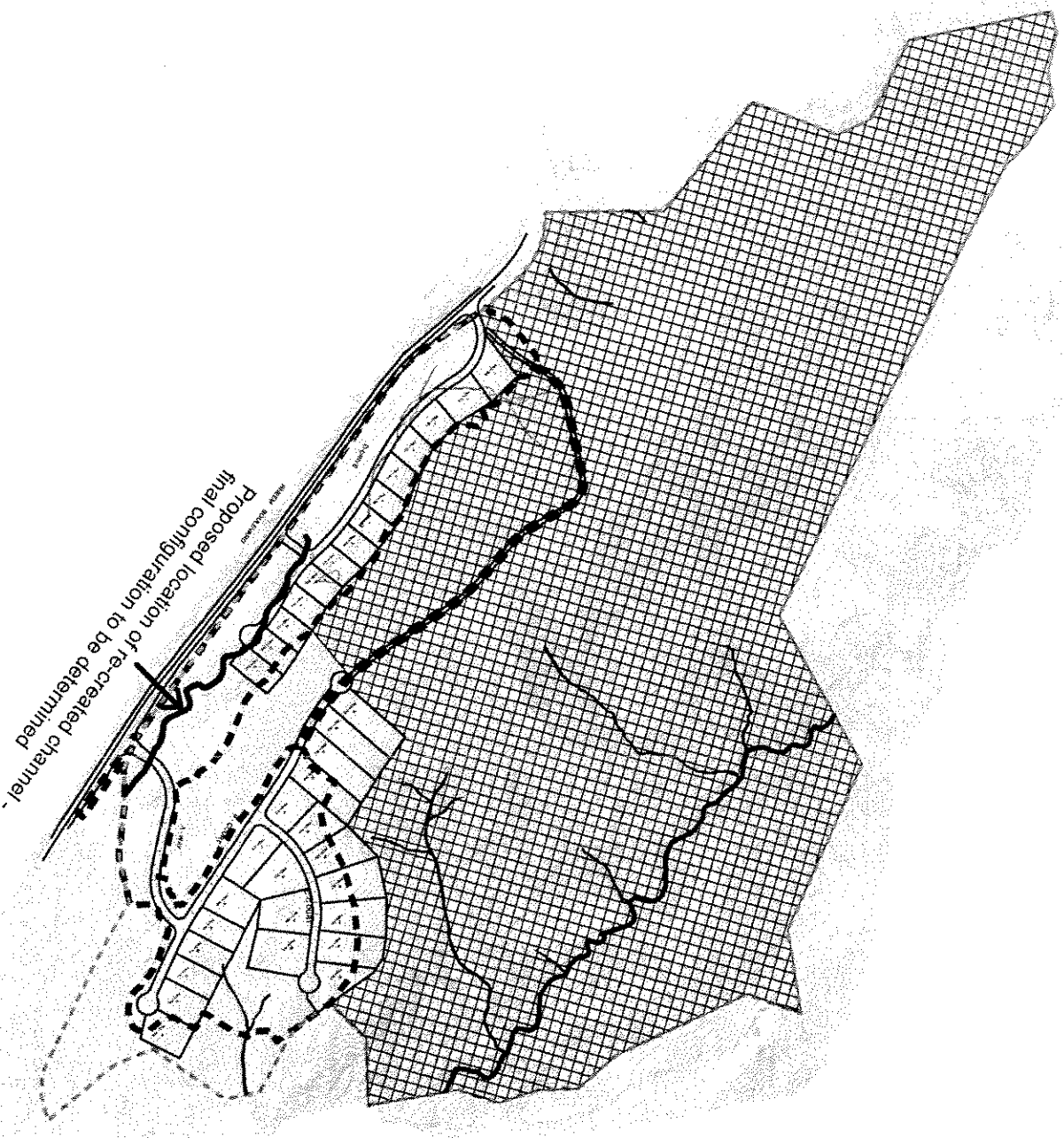


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Figure 3
Site Plan & Conservation Easement
Rancho Laguna
Residential Development
River West Investments
 Moraga, Contra Costa County, California

Legend

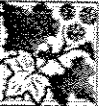
-  Site Plan
-  Grading Envelope
-  Conservation Easement
-  Project Boundary
-  Wetland
-  Intermittent Drainage
-  Topographic Contours



1:7,200
 1 inch equals 600 feet
 0 600 1,200 Feet

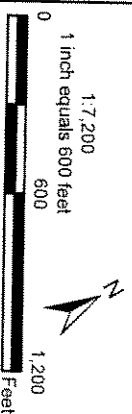
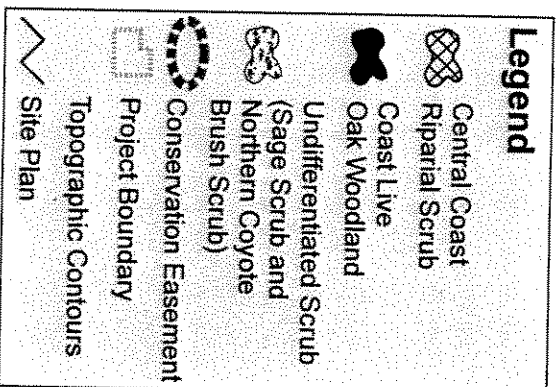


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Figure 4
Terrestrial Vegetation
Rancho Laguna
Residential Development
River West Investments
 Moraga, Contra Costa County, California



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